1: Fitzgerald H-5 (1937-1938) AE3 Sino-Tibetan
Border Peoples AE3

courts does not always conform to the enlightened ideas of the legislators. It may well be that an older spirit of compromise on the one hand, and of severity towards socially condemned crimes on the other, still pervades the law as it is applied from day to day. This is illustrated by the kind of sentence imposed for murders of different types. The murder of a near relative, father, mother, brother or sister, a crime abhorred by the Chinese, is punished with death. But the murder of one who is not related to the criminal, even though the crime may have very little palliating or extenuating circumstances, is often only punished by a sentence of five or six years' imprisonment. The prisons of Yunnan are for the most part well below the standard which the government desires to see enforced, and a sentence of some years in prison is therefore not so light as it may seem.

Civil disputes and lawsuits not involving criminal offences come under the jurisdiction of the Branch High Court situated at Ta Li. This type of jurisdiction is of course part of the reforms instituted by the Republic, and the law applied is the new reformed civil code. The Branch High Court has jurisdiction over a much wider area than the *Hsien* of Ta Li itself, for it covers all civil cases of importance brought in the *Hsien* between Pao Shan in the west, Li Chiang in the north, Meng Hua southwards, and Ch'u Hsiung to the east. These places, the nearest to have Branch High Courts themselves, are each about a hundred miles from Ta Li. A civil dispute arising in Erh Yuan or Chien Ch'uan has thus to be brought before the Ta Li Branch High Court, if the parties cannot compose their differences with the aid of arbitrators. The Min Chia, like the Chinese, are not at all a litigious people, always preferring to settle their disputes by arbitration if possible, and only resorting to the courts in the last instance. The cost of litigation in the civil courts, though not high by European standards, is a further deterrent. The ad-

1: Fitzgerald H-5 (1937-1938) AE3 Sino-Tibetan
Border Peoples AE3

vocate's fee is one dollar silver a day, but it is usual to employ two or three advocates, and cases may last several days, or be adjourned. In the latter case litigants from distant towns have to remain in Ta Li till the case comes on again, which involves further expense if the litigant has no relatives in the city. For these reasons resort to the civil courts is still regarded as the luxury, or the extravagance, of the wealthy, and does not appeal to the peasants as the obvious expedient for settling disputes.

In fact, the whole system of criminal and civil jurisprudence rests lightly upon the surface of Min Chia life, a sanction generally ignored, but useful in emergency, rarely touching the life of the ordinary individual. In spite of the reforms of modern times the old passive theory of government still operates in practice in such places as Ta Li. The duties of the government in former times were three; to collect taxes, to maintain order, and—a long way after the other two—to carry out such public works as were absolutely necessary. This theory, though no longer admitted, is still very much the practice; the idea that the government has duties of a positive kind towards the people gains way only slowly, and the corresponding realisation of a duty of the citizen to co-operate with the government makes even slower progress. Government is the business of officials, war the business of soldiers, commerce concerns merchants, and agriculture is all a farmer need think about; these were the old axioms, and in practice they still hold fast. The people neither expect nor desire the government to busy itself with their concerns; if a market is held in some out of the way spot in the countryside, hundreds of people with large quantities of merchandise and money assemble, but they do not expect or require the protection or presence of the police. A dispute over the water rights in rice lands, a matter vital to the villagers, is taken, not to the courts, but